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PROPOSED BRITISH NORTH AMERICAN

CONFEDERATION:

WHY IT SHOULD NOT BE IMPOSED UPON THE COLONIES
BY IMPERIAL LEGISLATION.

BY EDWARD GOFF PENNY,

Editor of the Montreal Herald.

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364
PEN

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INTRODUCTION.

THE INTERESTS ENGAGED IN THE PROJECT OF CONFEDERATION—CONSEQUENT DIFFICULTIES IN THE WAY OF OPPOSITION TO IT—AND THESE A REASON FOR CAREFUL CONSIDERATION OF SUCH OBJECTIONS AS MAY BE PRESENTED.

The Confederation of the British North American Colonies, of which it is proposed, in the course of this pamphlet, to examine the character and value, is not simply a political measure. In close connection with, and dependence upon it, are two other schemes of a *quasi* economic character, which we are told are, though for widely different reasons, equally essential to the success of the "new nationality," which it has been officially stated is to be formed. These two additions to the main design consist of the creation of a railway through a part of Lower Canada, the whole of New Brunswick, and probably a part of Nova Scotia, for the purpose of linking the Canadian, or rather the Grand Trunk Railway system, with the port of Halifax, and the purchase by the Canadian Government of the territorial rights, and rights of other kinds, which are supposed to belong to the Hudson Bay Company, in that enormous tract which lies between Canada and the Pacific Ocean, North of the United States boundary, with the exception of the Russian possessions. These enterprizes involve an expenditure variously estimated in official quarters at £4,000,000 to £5,000,000 sterling, and likely, according to ordinary experience in such matters, to exceed that amount by fifty to one hundred per cent. These sums it is proposed to borrow upon security to be granted by the British Government in aid of the Colonial credit.

The details required to complete the whole of this grandiose conception are mentioned here in order to help the reader to understand some of the difficulties under which the opponents of Confederation labour in endeavouring to secure a hearing for their objections. In Canada, with which the writer of these pages is chiefly acquainted, the whole Government patronage has been thrown into the scale to induce adhesion to the plan. This is a very powerful element of strength, and that it has been used without hesitation may be learned from the fact that a Minister of the Crown, in his place in Parliament, was forced to read a circular which he had addressed to every newspaper in Upper Canada, offering Government business to all who would lend their support to the Ministerial policy. This was in one department only. The coalition of the party leaders has, moreover, absorbed all the instruments and organs of opposition, which cannot be suddenly replaced. But to this must be added the influence exerted by the Grand Trunk Railway Company with its branches, controlling some thirteen hundred miles of road, having large establishments in almost every town throughout the country, employing a great deal of professional talent, and dealing largely with traders in numerous branches of commerce. The President of this railroad recently stated, in an ad

plete an arrangement with the Government of the new Confederation, in virtue of which the Company was to invest no capital, but was to contract for the working of the Intercolonial road, a distance of some 300 miles. It is not intended to impute to the gentlemen connected with this enterprise any motive inconsistent with a desire to promote the welfare of the country, as they understand it ; but it must be seen that they have a very natural leaning to a project which is so calculated to advance their interest and influence. Now, when the controversy is transferred from the Colonies to the Mother Country, what are the conditions under which a verdict has to be obtained ? On the one hand, the advocates of the measure have at their disposal the means of suggestion and exposition furnished by the official correspondence with the Colonial Office, carried on without publicity, and aided by the personal and official representations of a Governor General, who, however little ambitious he may be, can hardly fail to desire to add something in the nature of an achievement to the ordinarily dull routine of a Colonial Viceroyalty. They have the public funds to insure the publication of their views ; to pay for voyages to England and residence there ; official prestige and introduction to men of influence in the Legislature and in the haute commerce. Then comes the co-operation of all who in various ways, in England, are interested in the various kinds of investments created out of the expenditure in Canada of many millions upon the Grand Trunk Railway, and who are taught to expect an advance in the value of their property as a result of this political change ; and next, of many proprietors of the Hudson Bay Company, who, if their territory is to be bought by the Confederation, will be sought by a wholesale customer for that kind of property—wild land—which is being given away by retail all over the unsettled parts of the Continent. The President of the Grand Trunk Company is largely interested in the new Hudson Bay Company, and was one of the negotiators of the sale from the old Company. He has a seat in Parliament. The President of the Hudson Bay Company is an Ex-Governor General of Canada, and of course intimately acquainted with Colonial Office circles ; and the Financial Agents of the Province, the two powerful Banking Houses of the Barings and Glyn's, largely concerned in the Grand Trunk Railroad, and the negotiators of all our loans, have each several connections in the House of Commons. On the other hand, any objections have to be made by persons enjoying no authoritative position, to give effect to their representations ; and if they desire to employ the most powerful method, that of personal intercourse and explanations, they must do so at the cost of voyages borne by themselves, and at the risk of being regarded as impertinent intruders. It is but too plain, then, that any opinion contrary to that which has such powerful official and personal backing must be heavily outweighed. Nevertheless, the writer of this pamphlet, believing that the Confederation of the B. N. A. Colonies is certain to produce great evils, has not thought it right to permit the cause to go by default. He therefore proposes to show the reasons which, to his mind, exist against it, from the standing point of a Canadian objector ; and the difficulties which lie in the way of a fair hearing have been enumerated, by way of bespeaking the earnest attention of those who are asked to take upon them arbitrarily the disposition for all time of half a continent already inhabited by more than three millions of human beings. After all, it is upon his own judgment, when he shall have taken care to form it, and not upon the suggestion of any other authority, that the man who thinks he has a right to deal with such subjects should wield the power which he possesses

CHAPTER I.

CONSTITUTIONAL VICES OF THE PROCEEDINGS WHICH RESULTED IN THE ADOPTION BY A COALITION CANADIAN MINISTRY OF THE POLICY OF CONFEDERATION — THE CONSTITUTION PLACED IN ABEYANCE SINCE THE COALITION WAS FORMED.

The writer assumes on the part of his readers an acquaintance with the principles and forms of the British Constitution, and a love for freedom as it exists under the guarantees afforded by that frame of government ; and he therefore believes that one powerful reason against any sanction to this scheme of Colonial Confederation is to be found in the circumstances in which it was adopted two years ago as a measure of practical policy. On the 14th June, 1864, a vote to the following effect was carried by a majority of two in the Canadian Parliament, the subject matter complained of being only one of a series of malfeasances, most of them involving more or less of malversation and corruption, which had been charged upon the Ministry by the Opposition in general, but especially by the leader of the Upper Canada portion of the Opposition, Mr. Brown, the proprietor and editor of the *Toronto Globe* :

"That an humble address be presented to His Excellency the Governor General, representing that in June, 1859, an advance of \$100,000 was made from the public chest without the authority of Parliament, for the redemption of Bonds for a like amount of the City of Montreal, which Bonds were redeemable by the Grand Trunk Railway Company ; that by the terms of the Order in Council of the 1st June, 1859, the Receiver General was authorized to redeem the said Bonds on account of the City of Montreal, and to hold the same till the amount so advanced (\$100,000), with interest at six per cent, be repaid to the Government by the City of Montreal, subject to the condition that the said City do immediately levy the necessary rate to meet their indebtedness under the Municipal Loan Fund Act, and that the amount so advanced be repaid within three months ; that the City of Montreal having fulfilled the condition of paying its indebtedness under the Municipal Loan Fund Act, the Bonds in question were delivered by the Receiver General to the City Treasurer on the 13th September, 1859, whereby all claim against the City of Montreal was relinquished ; that under the instructions of the then Minister of Finance, conveyed in a letter dated London, 28th December, 1859, addressed to Mr. Reiffenstein, of the Receiver General's Department, the amount of the said advance was transferred to the debit of the Financial Agents of the Province in London, who deny that they ever consented to become liable therefor ; and that, in view of the facts above recited, this House would be failing in its duty if it did not express its disapprobation of an unauthorized advance of a large amount of public money, and of the subsequent departure from the conditions of the Order in Council under which the advance was made."

Now, if our constitutional proceedings are anything more than an ignoble farce, this vote ought to have led to the punishment of the Ministry thus declared to be guilty by its ejection from office — at least that ought to have been the object of those who voted in the majority ; for this was not the case of a difference of opinion upon policy, which might be met by a modification of the personal composition of the Government, carrying with it a modification of measures. The censure attacked the official integrity of the men against whom it was directed, and yet the Ministerial crisis which it brought about was disposed of by an arrangement for a coalition made between the condemned Ministry and a large part of those who had just condemned them for a misuse of their position. It was the necessity of some common policy, for a combination of men who had before differed about everything which caused the invention of Confederation as a practical ai

urgent measure. It may be said, that, though England does not love coalitions, such arrangements are familiar as parts of her constitutional history, and that an appeal against them can hardly be successful in her Parliament. But those of us who object to the Imperial sanction of this plot do not make the appeal. That comes from the men who ask the Imperial Government to give authority and permanence to an immoral combination. Let this Coalition and its policy be dealt with by the people of Canada, and we shall endeavour to deal with it as we think it deserves ; or, failing in that, we shall submit to the popular will. Only we ask that England, which does not love coalitions, will not permit her power to be invoked in an extraordinary manner to give stability to that which she justly detests for herself, and which must be hateful wherever honesty of purpose gives strength and motion to the machinery of Constitutional Government.

It has been just stated that the erection of the B. N. A. Confederation as a practical and immediate policy was invented for the purpose of giving some colour of public spirit to what was really only a personal bargain. The writer does not, however, seek to disguise from the reader that this statement may be met with denials supported by something like facts in rebuttal. Extracts expressing opinions favourable to a Union of the B. N. A. Colonies may be made from writings of an official character, some dating far back, and some from the hands of a member of the present Coalition ; and there may be room for difference of opinion as to the precise degree of importance which should be attached to these more or less speculative utterances. But the writer relies upon these facts—that no earnest Parliamentary effort had ever been made in Canada to bring about this Union in any form, and that it had been condemned down to the very moment before it was adopted by the leading parties to the negotiation for the Coalition, which adopted it as its *raison d'être*. This part of the subject will be treated hereafter in another connection, and proof of the foregoing assertion will then be made. At present it is only necessary to make the statement. In the meantime, it is of interest to show how this combination, begun in such a manner as to defeat the great principle of Ministerial accountability to Parliament, has, from that moment to this, operated to keep in abeyance all the checks which a powerful Parliamentary minority imposes on a small official majority. I shall illustrate this by three or four incidents of the last two sessions of Parliament. The Grand Trunk Railway Company had previously to the Coalition long been pressing the Government for an increase in the subsidy granted them in compensation for postal services, and it was believed in some quarters, and represented by the organs, written and vocal, of the Opposition that the so-called Conservatives were only restrained from endeavouring to grant this increase by the fear of defeat. The so-called Liberals had been in office for a short time in 1862 and 1863, and in their Ministry were Messrs. Howland and William MacDougall. During their period of office the demand for an increase of subsidy was repeated, and reported upon by their Postmaster General, perhaps the ablest equity lawyer in the country, now Vice Chancellor for Upper Canada, who treated the whole subject with the same comprehensive, analytical and logical labour that he would have employed upon a suit before the Court. His report was adopted by his colleagues, including Messrs. Howland and MacDougall, and the Company's application was refused, except as to an insignificant concession. During this time there were whispers, however, of a coalition

and the Hon. Geo. Brown, writing against such an arrangement, and showing its dangers, averred that the first evil would be the granting of this augmented subsidy. In the Confederation-Coalition Ministry the so-called Liberals were Messrs. Brown, Howland and MacDougall, and, according to the prediction of the former gentleman, one of the first things they did was to give the increased subsidy demanded by the powerful railway interest. The Upper Canadian liberal opposition had, for years, protested, among other things, against what are called sectarian grants—grants, that is, to Colleges or other institutions under the control of religious sects. This was another of the evils which Mr. Brown prophesied would be augmented by a Coalition; and, accordingly, no sooner did he, with his two “liberal” colleagues, join the Conservatives, than two new Colleges, belonging respectively to the Churches of Rome and England, were placed upon the estimates.

The Grand Trunk Company, during two or three Sessions of Parliament preceding the Coalition, had endeavoured to obtain powers to amalgamate their line with the Buffalo and Brantford Railway; and, though the divisions on this Bill were not absolutely identical with the lines of political parties, it may be said, with practical accuracy, that the Ministerialists were ready to give what the Railway Company desired, while the Opposition feared to create a commercial monopoly and to consolidate a power which was already felt to be too great for freedom. The three liberal members of the Confederation-Coalition had always voted against this amalgamation, and one of them, Mr. W. MacDougall, in a powerful speech, had characterized the project as “dangerous to the civil and religious liberties of the country.” But, as a member of the Confederation Government, Mr. MacDougall has exerted himself to carry this amalgamation, and it has been carried accordingly, by several changes brought about in the votes of members of the party of which he is an official leader.

Lastly, Messrs. Howland, MacDougall and Ferguson Blair were all members of the Reform Ministry already spoken of, which had a short term of office, during the years 1862 and 1863. In that capacity they advised Lord Monck to deprive of office three gentlemen, all old public servants, in highly respectable positions, one of them in the very first social rank in the country, on charges of embezzlement, after a *quasi* judicial enquiry, conducted in the terms of an Act of Parliament. On the resignation by Mr. Brown in the Coalition Ministry, Mr. Ferguson Blair took his place, and, being once more the colleague of Messrs. MacDougall and Howland, the three advised Lord Monck, or approved of the advice given to His Lordship, to reinstate those officers whom they had before declared to be guilty of malversation; and this without any sort of enquiry or process tending to reverse the conclusions at which they had previously arrived.*

These things are not mentioned as facts in which the People or Legislature of England ought to have any interest; nor to show that wrong has been done by the action of the Coalition Government; but to point out that the first and necessary consequence of the Confederation policy has been to suspend the Constitution, as the accomplishment of the project in the way now solicited in England will be to destroy it.

*Two of these reinstated officials were concerned in the *Lamirande Extradition*.

I pass over several facts of the same kind as of minor importance. It is proper, however, to mention two which lie at the very root of Constitutional theories. Since the epoch of the granting of what is called Responsible Government to the Colonies, we had not heard till lately any expression of the will or desire of the Sovereign, until legislative measures have come before her or her representative in due course, after they have received the assent of both Houses of the Provincial Parliament. No sooner, however, was this policy of Confederation introduced as a practical measure, than Mr. Cardwell, without waiting for the expression of the popular will, signified his gracious patronage and support of the newly formed scheme of the Canadian Government—a scheme, like all others in our system, making part of the policy of a party, and not the less so, because that party had been made large by means which strike at the foundation of the British system of Parliamentary Government. Despatches to this effect were sent to all the Colonies, and were used to cast the reproach of disloyalty on those who would not give their assistance to a revolution. It was, moreover, openly boasted by the friends of the measure, that the various Governors would be instructed, when their private opinions, like that of Mr. Gordon in New Brunswick, were supposed to be hostile, to make use of their official power in order to seduce or compel the assent of the people. This is what followed: in New Brunswick owing to the fact that the Parliament was about to expire when the scheme was propounded, there was a general election which turned upon this very question, and the decision of the people being overwhelmingly against it, the Ministry of the day were ousted, and a new Ministry took their places avowedly, on the basis of opposition to the Union with the other Colonies. At the reassembling of Parliament after an adjournment a vote of Want of Confidence was moved by the party who had left office, though they numbered only four or five votes in the House of Assembly; but while the debate was proceeding the Legislative Council passed a resolution expressing their desire for the very change, against which the people at the hustings had declared almost unanimously a few months before. This address the Lieut.-Governor received, replied to favourably, and communicated to Her Majesty, not only without consulting his Ministers but in opposition to their wishes, and while they were fighting a party battle, but with a large majority of the Provincial House of Commons in their favour. The result was of course a resignation followed by a second general election within twelve months, and a reversal of the former decision at the hustings. It is not important to ask whether this strange change of sentiment was genuine or factitious, produced by influences and arts which are easily exercised in a country where the population does not exceed that of a second class English city, and where the royal authority was thrown into the scale with the persuasions of men who expected to handle £4,000,000, to be expended amongst a population of 250,000 people in building a railway throughout the country, to pay for which fourteen-fifteenths of the taxation would fall on other people than themselves. But Englishmen are asked to reflect upon the consequences to the constitution, if during a debate of non-confidence in a Ministry arising out of such a question as the Reform bill, the House of Lords should step into the arena, should pronounce in favour of the opposition policy by address to the Queen, and should receive from Her Majesty a reply as-

sureing their Lordships that she was with them and against her sworn advisers, who nevertheless retained the confidence of the Commons. If such a proceeding would be regarded as an act of revolutionary violence, in England, its character is certainly not changed by its taking place in a country where the paucity and poverty of the population, and the absence of powerful social rallying points facilitates the execution of well planned electoral *coups d'état*. The occurrence characterises the whole movement and shows how completely from its inception all constitutional doctrines, such as prevail in England, and have prevailed in these Colonies, have been set aside in order to secure its success. The other occurrence to which I have alluded took place in the Canadian House of Assembly. There after the Confederation scheme had taken the form of the Quebec Constitution, a fear was entertained that it would meet with opposition from a majority in Lower Canada—one of the intended members of the Confederation. This majority was likely to be composed of two elements; one being the representatives of the isolated English speaking, and Protestant populations of Canada East. These gentlemen saw clearly that cut off from Protestant Upper Canada, they would lose all influence, in the legislation upon such subjects as were to be committed to the local legislature, and their experience did not reassure them as to the consequences, especially in matters connected with schools, where differences of nationality are likely to be widened by difference of religion. In order to prevent them from voting against the measure therefore, it was thought necessary to give them guarantees: but as the avowal of that intention would have probably destroyed the Catholic majority, the adhesion of the Protestant members was retained by a secret and confidential letter addressed to one of them by the Finance Minister on behalf of his colleagues, containing a promise that the required security should be given in the local Constitution which was to be enacted in the next session—a promise which when the time came was broken, for the same reason which made it necessary to keep it secret when it was given. The writer has no belief in the efficacy of any such special guarantees in favour of a class under a system of popular Government. He does not complain therefore, that the promise made was not kept; but he records the fact to show the unconstitutionality, and irregularity, and deception which has tainted the prosecution of this design from the beginning and throughout.

CHAPTER II.

THE ENACTMENT ASKED FROM THE IMPERIAL PARLIAMENT AN ENCROACHMENT ON THE POWER OF SELF-GOVERNMENT ALREADY, RECOGNIZED AS EXISTING IN THE COLONIES.

This unconstitutionality is, however, most broadly discerned when we take a comprehensive view of the mode in which it is proposed legislatively to consummate the scheme, and in order to take such a view it is necessary to say a word or two on the existing Canadian constitution. This in so far as it is other than the prescriptive and inherent right of British subjects to carry their liberties and constitution wherever they go—a doctrine which admits of certain limitations, but which nevertheless must always be remembered, as it underlies the whole theory of colonial self-government—is to be found in the Imperial Act for R.

uniting the two Canadas, passed in 1840. This law will be found if examined to have been from the first almost wholly an enabling act. Its great utility was to indicate the geographical limits within which the powers it granted were to be exercised, and to set up the first frame work of the legislative machinery. But that being done, it committed to the people of Canada the entire disposal of their own destinies, almost or quite as freely as that power is enjoyed by their fellow subjects in England—a power extending not merely to the making of laws by the machinery thus provided ; but also to alterations of a constitutional character in that machinery, such as the people of England may make at their pleasure, which of course does not imply any faculty of dissolving the tie of allegiance. There can be no doubt that the intention of the English statesmen by whom that act was passed was to give the Colony self-government in the broadest sense which can be conceived of consistently with the one condition just mentioned, and, though not without a short struggle under the Governor Generalship of Lord Metcalf, that complete self-government upon the British model was speedily established. For some twenty years, since then, and up to the time when the project of Confederation became a piece of party politics, no one in Canada has thought of complaining of it or abolishing it. The Imperial authorities have in fact respected our powers to an extent almost inconsistent with any idea of colonial dependence, by sanctioning tariff bills passed with an avowed intention of affording protection against imported goods, to a large extent of British manufacture. And upon an occasion when the action of the Imperial Parliament was invoked for a particular purpose, the reply indicated in a marked manner a desire to avoid all interference with our legislation. In order to prevent supposed danger to certain portions of the population of United Canada from constitutional changes, there was a restriction in the Imperial Act of 1840—almost the only one—upon the power granted to the three Canadian estates to legislate at their pleasure. This restriction was the condition which required a two-thirds vote of both Houses, in order to render valid certain changes in the constitution of the legislative bodies. A two-thirds vote was obtained to enlarge and otherwise alter the representation in the House of Assembly ; but when it was desired to make the Legislative Council elective, and an address was agreed upon praying the Imperial Parliament to enact a law for that purpose, the response from England came in the shape of a repeal of that clause of the Act for Re-uniting the Canadas, which required a two-thirds vote. Thus the power of the Canadian Legislature was recognized to deal with all constitutional questions, as the British Parliament may do ; legislating upon them itself and by a simple majority ; and the Council was made elective accordingly by a Canadian statute. It will hereafter be contended that this is the proper precedent to be followed at present ; but the object now is to show what has been the spirit and practice of the Colonial Government of the Mother Country, since she declared that she had acknowledged in the Colonies the powers of self-government. The Act for Re-uniting the Canadas — amended as already mentioned — will be found, if we assume the word Parliament in a British country to have a definite meaning, to recognize in the Parliament of Canada all the powers of its great historical prototype. The functions of the two branches resident in the country are

identical — those of the other branch is only different in order to meet the case of the Crown having to act through a distant attorney.

The Coalition Ministry, in its first phase, did not make the Confederation of the Colonies the leading feature of its policy. In the written statement of its intentions submitted to Parliament the basis was stated to be the making of certain constitutional changes in Canada, Confederation being only a future and possible contingency. This is its own statement : —

“The Government are prepared to pledge themselves to bring in a measure next session for the purpose of removing the existing difficulties, by introducing the Federal principle into Canada, coupled with such provisions as will permit the Maritime Provinces and the North West Territory to be incorporated in the same system of government.”

It will thus be seen that what has since been done is not what was then promised, and that what was promised has not been fulfilled. However, a delegation of Ministers of the Crown soon after proceeded to Charlottetown. At that place a conference had been called of delegates from three of the Maritime Provinces — Nova Scotia, New Brunswick, and Prince Edward Island — to consider the propriety of a union of those Colonies — not a Federal union modified from the American pattern, but a legislative union upon the recognized British model. The Canadian delegates were not invited to the Conference ; but they went, and if they did nothing else, they, wisely or unwisely, aided to prevent the accomplishment of this real union of a group of Colonies geographically contiguous and otherwise in close relation to each other. Nothing, however, was agreed upon at that time. Subsequently, another Conference was called at Quebec by the Governor General of Canada, and this body, utterly unknown to the Constitution, having no authority from any one, consisting, so far as Canada was concerned, wholly of Ministers of the Crown, but, as respects the other Colonies, of men appointed at the mere pleasure of the respective Governments, set to work, and in about fourteen days of actual work turned out a Constitution which was for all time to govern the English race on half a continent ! It is not intended to impute extreme importance to the single fact that this body had no more legal or constitutional authority than any other self-elected men, who, in a given country, should frame a code of laws, intended, when once passed, to deprive the people's representatives of the power of legislating upon a number of subjects previously under their individual control, and should ask the Legislature to destroy its own powers by adopting their performance. But the circumstance is worthy to be considered in connection with this fact : that the sittings of the Conference were secret, so that the people of the countries for whose benefit it professed to be labouring neither knew what was being done nor the reasons for which it was done. Even when the Constitution had been thus framed and agreed to, it was some months before it was made known to the people concerned except by newspaper publications, said to be surreptitious, and later by copies of the Constitution, marked “private and confidential,” which were addressed to members of the Legislature. These things, even together, would be of little consequence if the proposed piece of legislation had been a mere draft, submitted in the usual way to Parliament, and then publicly discussed and voted upon at the three readings, and in Committee. But this fundamental law for a vast territory was really enacted when it was drafted

secrecy and haste, by self-chosen legislators, we know not with what, or whether with any of the forms usual in deliberative assemblies. When the bill came before the body supposed to be the representatives of the Canadian people, that body was told that they might talk about it as much as they pleased, and indeed the House was moved into a sort of Committee of the Whole, with the Speaker in the Chair. But the clauses were not allowed to be put separately, and the Ministry announced that they would employ their majority to prevent any amendment whatever. Such was the farce in virtue of which it has been alleged that the Parliament of a free people has given its assent to a large curtailment of rights, of which some have always been boasted of as inherent in the race, and some have been specially secured by legislative enactment.

But let us now go farther and ask whether even if a Ministry had introduced this constitution or those parts of it which relates to Canada upon its responsibility and had invited the two powers to pass it with the ordinary forms, the House would have had any right—we will not say power—to comply? Whether the Ministry who sought thus to abridge the power of the people would not have been in other times fairly open to impeachment.

The most rabid assertor of the power of an existing Parliament will hardly pretend, whatever might be done by those two branches of the Constitution who speak for themselves, that the House of Commons which speaks for others, is authorized by its mere election to do anything which it pleases—to make the Kingdom a Republic; an Imperial Despotism; an elective Monarchy; or to constitute itself *en permanence*, dispensing with future elections and filling up vacancies by its own power. If these examples are thought to be extreme illustrations, it is replied that the last is exactly one of the things which is to be done with respect to an elective branch of our existing Legislature, if the Quebec Constitution shall ever obtain the force of law. But such examples apart, it can hardly be believed that in modern times any statesman will contend that a change so vast as this union should be carried without the people having had an opportunity of expressing an opinion on it at the hustings, in the ordinary way of the constitution. In general the opportunity for such expression of opinion is secured by the natural play of parties, for it rarely happens that a great political revolution can be carried without several contests which bring members on both sides of the House before the electors to explain and justify their conduct. But let us suppose Lord Derby beaten upon the question of Reform and that while he hesitated whether to resign or to dissolve, Earl Russell should come to him and should offer a coalition, and that the two should agree to dissolve the existing union between the three Kingdoms, and convert them into a mere league of States, with the three Scandinavian nations added—can it be conceived that any House of Commons could have authority *de plano*, to effect such a revolution? Still less could it have the right to deprive its constituents of powers which they now possess, and to usurp permanently the powers committed to it for a limited time. From what has been said of the Union act, it will be seen that the people of Canada like the people of England are now competent through their representatives to take part in the enacting, amending and repealing, of any laws they may believe that they require, whether these laws relate to the Government of the community or to the constitution of the bodies by which the laws are made. The

subjects chiefly of the latter class. It is supposed that the readers of this pamphlet are in possession of this document, and, therefore, it is not deemed necessary to recite the whole or even parts of it here. It is proper however, to point out that not one of its seventy-two articles, which the British Parliament is asked to enact, on all of which the Canadian Parliament can now legislate as it pleases, can be hereafter reformed, or changed by any Canadian authority. We are to have a charter *octroyé* by a superior authority, in place of a statute enabling us to exercise recognized inherent rights; to this superior authority we must revert whenever we desire ameliorations; and the natural obstacles to reform which are to be found everywhere, will, in our case, be indefinitely augmented by the interjection of an appeal to an authority on the European side of the Atlantic,* moved by influences occult to us, after we shall have gained the battle at home. Let it be observed that the possibility of such changes being desired is hardly problematical. They are required, from time to time, in all States, most of all in new countries, where the centres of population and influence are rapidly shifting. It has been shown that, during the quarter of century since 1840, two very important alterations have been made in the form of the Colonial Legislature, one of them, moreover, involving a change in the Imperial Act; and those who are acquainted with our politics are aware that an immense majority of the people of Upper Canada have been earnestly clamouring for a still more important change, which would give them a share in the representation proportioned to their population, instead of the mere equality with Lower Canada which they now possess. Contests will, of course, arise again upon points of a similar nature, and the Quebec Constitution seems to have been framed, in one most important particular, with an especial intent of giving rise to them, and of preventing any satisfactory adjustment. This particular—the only one to which special allusion will be made—is the Constitution of the Legislative Council. Under the Imperial Act for reuniting the two Canadas, this Council continued for about ten years to be nominated by the Crown, not without frequent complaints, which, at last, led to its being changed for an Elective body. The Quebec Constitution reverses this decision of the people and of their legal representatives, at the behest of the few men who framed it, without a single petition ever having been presented asking for a return to the old system. By what right? Who has authorized either House of Parliament to take away this important power from the People, especially, who has authorized one of these bodies, elected for a term of years, to ask the Imperial Parliament to convert into a life tenure that which is now temporary and dependent on the will of their constituents? In revolutionary times we have heard of long Parliaments, and of elected assemblies

* The conduct of the Colonial Office on the seat of government question is a good example of what is meant here. The Mother Country had not the slightest interest in the locality where the Canadian Parliament should assemble; but it consented—blindly no doubt—to serve the interest of a Canadian party, which, having the duty of governing at the time, found the exercise of that duty on this point exceedingly embarrassing. The British Government, therefore, accepted the office thus deferred to it, and probably, acting upon suggestions, of which the people of Canada knew nothing, selected the place which out of the five competitors would have stood either fourth or fifth on any vote in the Canadian Parliament. In consequence, about \$4,000,000 have been laid out in beautiful buildings in one of the smallest and the remotest of our cities; and at the so called seat of government neither the Governor General nor the Government have sat one moment longer than they were obliged to do by the meeting of Parliament at that place. The meetings of Council have been since held chiefly in Hotels at Quebec and Montreal, and a man who has to transact business with a Minister of the

voting themselves *en permanence*; but never before was it heard of, that under a constitutional *regime*, an Elective Legislature should, on their own motion, deprive the electors of their powers, and declare themselves to be in office for life. It is hardly necessary to ask whether a British Legislature will give effect, and permanence, beyond the possibility of reform, to such an usurpation.

It may however, be inquired whether after all the people have not virtually if tacitly given their consent. As the writer has no object but truth, he is ready to acknowledge that a large part of them have apparently—perhaps really done so. But no one ought to take that for granted until the subject has been discussed and the decision given in the usual and only way. That whatever acquiescence there is, is regarded by the friends of the measure as doubtful and temporary may be fairly assumed from their unwillingness to allow delay, or any appeal to the popular judgment in a matter, which for its own sake requires no special haste, and, being for all time, seems worthy of a few months deliberation for its orderly completion. The true explanation is, in the judgment of the writer, that, so far as the people have consented, it has been as a woman, whose advisers have been bribed, consents to sign away her property; or as a man who has been drugged consents to be robbed. A people cannot moreover express itself without organs, and the *coup d'etat*, by which the leaders in Parliament agreed in a few hours to regard as a supreme good that which down to that time they had refused seriously to consider, or considering had condemned, enlisted in the conspiracy against the people almost all the Parliamentary and literary ability of the country, especially of Upper Canada. But it is the Imperial Parliament which has now to act, and it may fairly be asked of that body, whether, even if the people of Canada, from any cause, are willing, like the poor spirited freemen of the middle ages, to sell themselves to a superior, the British Government will accept the power of coercion, and the duty of protection implied in the change of relationship. The word coercion is used advisedly, because from the moment the British Government shall have legislated for us, it will have assumed *ex necessitate*, as every legislator assumes, the attitude of standing by its own acts and resisting the repeal of its decrees. Thus, any movement in Canada against the Imperial enactment, must take the shape more or less pronounced of a movement against the Imperial Legislators, though the party seeking the change may have no hostile feeling whatever. History is there to show us the consequence of such a state of things in the long years of dreary political warfare terminating in armed strife between a Canadian party of Reform, and a Canadian party of conservation backed by the Colonial Office in Downing Street, which had not in reality the slightest interest in the dispute. We know the result. Why repeat so disagreeable an experience?

CHAPTER III.

THE INTERNAL OBJECTIONS TO THE QUEBEC CONSTITUTION — CONFLICT OF POWERS
— IRRESPONSIBLE AUTHORITY CONFERRED ON ONE BRANCH OF THE LEGISLATURE — FINANCIAL EVILS OF THE SCHEME.

The object of these pages has been to show that there exists no right in the Executive or Legislature of Canada to ask the Imperial Parliament to over-ride our liberty of legislating for ourselves, by enacting the Quebec Constitution; and that the request cannot be complied with without a palpable encroachment on Colonial rights, some of them recognized as inherent by the Mother Country for more than a

quarter of a century ; others, like the power of choosing the Legislative Council, more recently enacted by solemn act of our Legislature, assented to by the Queen in regular course of law. It is now proposed to examine the project on its own merits ; and, in this part of the inquiry, it is necessary, first of all, to sweep away erroneous ideas evolved from the plausible but deceptive titles with which the Confederation of the B. N. A. Provinces has been decorated. It has been called a Union, a Consolidation, an Amalgamation, and so forth — all suggestive of a gain of strength by concentration, whereas, in truth, as to four-fifths of the population affected, it will neither be a union, nor a concentration, but a disunion and diffusion of powers. The population of the two Canadas is at present nearly three millions, that of all the other Provinces some 750,000 or 850,000. The proposition which has sought favour under the name of Union is that Canada, now governed upon the British system as an integral country, shall be broken into two, in order to be thereafter wired together again like the bones of a skeleton, with three superfluous members, with which she has no more natural connection than existed between the parts of Mr. Venus' "miscellaneous," or than would have been created if that artist had chosen to hook two or three additional limbs on to a single specimen. The idea in accordance with which this new tie is to be constructed is the American one of a league of States once sovereign, and still retaining a large share of their original sovereignty ; not the British idea of a country where all sovereignty is one and indivisible, such as, with so much labour, was at last established throughout the British islands, and such as our own Canadian Union as it has existed since 1840. The word American is not used as if it carried with it any reproach. On the contrary, the writer regards the American Constitution as a remarkable monument of human wisdom ; but it was adapted to circumstances quite other from those of the present Colonies in British North America. The old Colonies, when separated from the Mother Country, were, as the effect of that separation, without any machinery for common action by which they could take the place which they desired to occupy in the family of nations. Hence the necessity of creating such machinery. But the men who framed the American Constitution did not commit the folly of breaking up any one of their established States in order that they might have more pieces upon which to try their dexterity in putting States together. Their Constitution purports to be contrived for the more "perfect" union of the States which it was to govern—a more perfect union of each with every other. The Quebec constitution is intended to dissolve the existing cohesion of the parts of a Province which contains four fifths of the people of the intended league, and according to the present movement of population will at the end of a quarter of a century contain nine tenths of the whole. Assuming then that we can conjure with the word "Union," do we gain or lose when we break up so much for the sake of loosely joining so little ? Let us add one other consideration—that the two Canadas which it is proposed to divide are from their geographical position on the great water system of the Continent bound together by those close natural connections, by which political connection is commonly indicated, whereas they have no intimate relations of any consequence with the Lower Provinces, nor are there natural circumstances to lead us to expect in the future any great—it is not denied that there may be some—extension of these relations. But having adopted the idea of a league, it might at least have been expected that the framers of the constitution would have consistently respected the autonomy of the component Provinces—that while they took away some of the self governing powers from the members, to create out of them the power which is to be exercised by the head, the

would at least have left a share of well defined authority to the Legislature of each Province, within the limits of which it should be free from control. By such a course, the practical inconvenience of a divided government would gain some compensation on the intellectual side; for it may often happen in a Confederacy thus constituted that an opinion so unpopular as to be everywhere crushed out where the influence of the Central Government is paramount, may obtain refuge and secure ground for growth in one or other of the individual States, as we have seen the anti-slavery idea protected in New England, until it was strong enough to overshadow the Union. The Quebec constitution defines no territory within which the powers of the separate Provinces shall be supreme and unquestioned. There are, as if in order to create conflicts of jurisdiction, subjects on which the General and Local Legislatures are to have concurrent jurisdiction, and the 45th clause enacts that the laws made by the general Parliament in these cases shall supersede those of the local Parliaments. The Governor of each Province is moreover to be appointed by the General Government, and to be removeable of course, so that the Cabinet of the General Government will have the power of thwarting any independent action in the separate members of the Confederacy; and as if this was not a sufficient preparation for entanglement and quarrels, the 50th clause declares that "Any bill of the General Parliament may be reserved in the usual manner for Her Majesty's assent, and any bill of the Local Legislatures may in like manner be reserved for the consideration of the Governor General" — a disposition, by the way, which, by implication, ousts her Majesty and the Imperial Government of their prerogative and functions on a large number of subjects, in a manner which is rather cavalier on the part of men who pride themselves above all else on their devotion to the Crown, and the Mother Country. We have now the free, elastic old English Constitution to which we are accustomed, such as belongs to a nation, which at "Heavens command" has arisen whole and complete, with organs necessary for progress, developement, and adaptability to all occasions. And we are to have in place of it a Constitution whose idea is that of an artificial nation, constructed from borrowed materials, and limited, as to powers by the deficiency of those which have been withheld. But neither idea has been carried out consistently by our Colonial Siéyès, and hence we have provision made from the first for hostile camps and perpetual conflicts. It is impossible to impute too much importance to this last consideration, when we remember that Canada is saturated with American literature, especially of the political kind, and that whatever may be the letter of a Federal Constitution, men on this continent will look for its interpretation to that country, where precedents have been made, and where the State is as real a power as the Confederation. But the most remarkable example of perverse ingenuity on the part of the framers of the Quebec Constitution is to be found in their provision for a Legislative Council. It has been already shown that that body in Canada has been made elective. Enough has been said of the want of authority in any Colonial or Imperial body to deprive the people of the right thus acquired by them. We have now, therefore, to consider the wonderful piece of constitutional machinery which has been invented to supply its place. The Legislative Council is not only to be appointed by the Crown in the manner heretofore accustomed, but is to consist of a certain fixed number of members to whom no additions can be made. In short the Senate of a great people is to be modelled nearly upon the pattern of those close corporations, which in England half a century ago, managed the affairs of Parishes and Boroughs, and established a character with which we are all acquainted. The appointments of new members is not, it is true, to be made by the survivors; but it can not be doubted that the new men com-

ing in one at a time, at long intervals, as vacancies shall be occasioned by death, with no fear of constituents behind them, will rapidly assimilate with the views, policy and prejudices of the mass of their colleagues. The body will have a power in the Government far greater than the House of Lords in the British Government, since, though new creations have been only once made for the purpose of changing the political character of the Peerage, the power of the Crown to make such creations in the last resort, on the advice of Ministers, must temper and, as we know historically, has tempered the irresponsibility of the second branch. But by what process is a Council, which can neither be modified by new appointments, nor changed by new elections, to be brought into that harmony with public opinion, which, though unnecessary in the American system where differences are provided for, is absolutely essential in a Government, which, according to the third clause of the Quebec project, is to follow the model of the British Constitution, so far as circumstances will permit? The nominees in the new Council will at their appointments probably be long past the prime of life; but even if young men are chosen, they must in the course of a few years become aged, and it is manifest that the body thus constituted will always thereafter be composed of men at the last stage of life, just strong enough to doze away the time of their daily sittings—*laudatores temporis acti*—imbued with the hatred of change which befits their age, their class, and their place in this constitution. Can any one believe that a people who would not endure a nominated Council, subject to be forced at extremity to consent to the popular will, will submit in practice, however little they remonstrate in advance, to the arbitrary action of such a legislative body, thus wholly removed from direct or indirect popular control, and raised above public opinion? Such an institution would be anywhere intolerable, how especially intolerable must be its natural immobility in the immediate neighbourhood of a nation so versatile and progressive as the people of the United States? There is one other consideration which it is proper to consider. These gentlemen are all to be appointed by the ministry which shall be in power at the moment when the new Confederacy shall be established, and notwithstanding the two provisions that they shall be as far as possible chosen from the members of the existing councils, and that this shall be done with a due reference to the claims of the opposition, it is certain—to put the matter in no stronger way—that the Council thus created must take its colour from the party which happens at the moment to be in the ascendancy in the country. What is to happen then if a new government shall come in and find its measures absolutely blocked by a garrison occupying one of the passes of the constitution, where it can neither be defeated nor turned? *

The foregoing objections will have little weight with those who think of constitutional rules as the mere stage machinery by which clever performers occupy the attention of the people while they accomplish objects which they esteem for public or personal reasons to be good. Such persons know that in book-keeping a correct balance can come only out of correct entries; but they can never understand that political science has its laws like other sciences, and that these cannot be violated without mischief. persons will contemptuously regard as mere theory all that has been said of rights, and of the inconsistencies in the rules by which it is governed in the new Confederation. Let us, therefore, look at regarded as practical effects. Incidentally it has been shown that created in the new State conflicting authorities, and almost neces-

*In 1849 the Canadian Government of the day found it necessary to the Council in order to hold the position which they derived from the Lower House.

or less virulence, possibly rising to the height of civil war, as we have seen in an adjoining country, where, nevertheless, the powers of the State and Federal Governments have been carefully distinguished. That is a practical consideration of a grave nature. But again—the breaking up of the present Government of Canada, involves the expense as well as the embarrassment of three Governments, one, it is true, to be enjoyed in common with the other Provinces, in place of that which has been hitherto found quite adequate to all the legislative and administrative functions which we have, or which we can have when united, so long as our international relations and their consequences are under the control of trans-Atlantic authority. It was for international purposes that the Federal Constitution was adopted in the United States. We have no international relations, and, therefore, we are not creating a Federal Government because that is found requisite for the fulfilment of duties now neglected; but are, on the contrary, setting out a show of functions as an excuse for that worst of extravagancies—two supernumerary Governments. The pecuniary burden of this multiplication of useless functionaries, is not to be measured by the salaries and endowments which those actually in office will receive. The great canker of Society on this continent—the, perhaps, necessary drawback on the institutions we enjoy—is the struggle of a multitude of candidates for political and official positions, by which, in the absence of property or other industry, they may live, as other men do, by their professions. Of course there are politicians to whom this remark does not apply, and there are more who, though they end by regarding the possession of place and salary, or a position which facilitates jobbing, as the one thing to be obtained, no matter at what expense of character, began life with genuine zeal, perhaps enthusiasm, for what they esteemed to be the right. However, that may be, we see in the Colonies and in the United States alike, because the structure of Society is nearly the same in both, that every Legislative body becomes the natural birth place of a crowd of adventurers, who, in some way or other get their living from the public—many of them by means far more mischievous than the drawing of salaries without rendering corresponding service.

But even this source of increased and useless expenditure is trifling compared to the burdens which we are to assume in the shape of the two enterprizes to which allusion has already been made. The people of Canada, at the cost of sacrifices which have weighed heavily upon their financial position, have constructed two lines of communication from one end of their country to the other. One of these is formed by a series of Canals, and by the deepening of Lake St. Peter, a vast work of under water dredging, by which access to Montreal is obtained for ships of 20 feet draft, instead of the small vessels to which her trade was formerly confined. The other is by the Grand Trunk Railway, which, though nominally built by a Joint Stock Company, required and obtained enormous grants of money from the public. No mention is made of other Railways, because, though all received certain assistance from the public, some of them, especially the Great Western, are able to meet all liabilities. Now, having effected all these improvements at their own expense, and at the cost of incurring great permanent burdens and heavy taxation, the Quebec Constitution pledges the people of Canada to begin over again, to build a railroad through a country in which they have no direct, and as it will hereafter be shown only the faintest contingent interest, and to pay certainly four fifths, probably, as the movement of population proceeds, eight or nine tenths, of the entire cost. In addition to that it pledges the Confederation to the acquisition of the North West Territory, which, when sought can be reached directly from Canada only

by a difficult and circuitous route through northern latitudes, round the head of Lake Superior. This, in order to utilize the country, will involve the construction of more railways, having to compete with those running into the same region over the easier routes, and through the milder climates, which are to be found between the head waters of the Mississippi and the Red River country.* This property, moreover, which we are to purchase at the cost of some £1,000,000 sterling, can only be rendered available by immigration, and every session of our Provincial Parliament sees committees appointed and motions made to contrive ways by which we may get immigrants diverted from the United States, which is now the favourite place of settlement, in order to clear the lands which we at present possess. These immigrants in the United States obtain eighty acres of land at their own option, with larger grants for wife and children, for a settlement fee of \$5 per eighty acres, and in Canada we have partially adopted the policy of gratuitous grants, so that it seems to the ordinary mind anything but a wise policy to purchase territory for a large sum—which will after all be only a small part of the cost compared with that of building roads and organizing a Government—only to compete for settlers of which we cannot even now procure enough, with a country which gives away its wild lands for nothing.

Another very serious objection for Canadians, and one which should weigh heavily with British legislators who expect us to bear our fair part in the defence of our own territory, is the unfair and overwhelming military burden, which this Confederation, if it really means anything, will impose upon us. All that we can be asked to do is to defend our own territory, and even that only in part, because nations, no more than individuals, can be held to the impossible, and three millions cannot fight thirty across an open frontier. What then is to be expected if, in addition to our own weakness, we charge ourselves with the infinitely greater weakness of New Brunswick, with a population to man its frontier, not much exceeding twice the population of Montreal—if also we pretend to hold the long line of wilderness between Lake Superior and the Pacific? Suppose we blindly or presumptuously offer things so preposterous, is it wise for the mother country to delude herself with the belief that we shall ever fulfill our engagements, or that an attempt could be made by any Provincial Government to enforce their fulfilment without giving rise to the most profound discontent? In the opinion of the writer the acceptance of these responsibilities is the undertaking of a pecuniary load which can result in nothing but Provincial bankruptcy, possibly after years of discontent, which will be directed naturally against the Imperial Government, if it legislates for us, instead of leaving us to legislate for ourselves.

CHAPTER IV.

USELESSNESS OF THE PLAN FOR ITS PROPOSED OBJECTS:

If these are good grounds of objection to the proposed arrangement, it seems to be not less true that the supposed advantages turn out to be illusory when they are examined. Passing by vapouring about the pleasure and pride of living in a great country, and creating vast careers for those gentlemen who from time to time turn up, as Colonial politicians, the advantages are mainly described under two heads. It is said that Confederacy will enlarge the trade between the Colonies; and will increase their strength to resist an enemy—in other words the United States. The writer does

* It is just now announced in the Chicago papers that a Company of English capitalists has undertaken to build a railway from St. Paul to Lake Superior.

not affect to decry the advantages of the removal of fiscal restrictions between neighbouring communities, and is quite ready to avow that usually the destruction of these barriers augments commercial intercourse to an extent much greater than would appear likely from any reasonable calculation made before hand. But he believes that any such reasonable calculation would give promise of a very trifling result in the case of the Colonies which it is proposed to confederate, first of all because there are already no duties between them upon unmanufactured articles of natural produce, such as are the leading objects of their surplus production and export; next because from the identity in the characters of their people, and of the latitudes in which they reside, it is unlikely that there will ever be that great diversity of product which is the foundation of a very large interchange of commodities. It is true that Nova Scotia produces coal which Canada does not and which she consumes, and that Canada produces flour which the Lower Provinces do not on an extended scale, but of which they of course require large quantities. Yet though these articles are eminently proper for transport by water, though we have an admirable summer navigation, and though there are no inter-colonial duties upon these articles, no considerable trade has grown up in them. Fiscal restraints being removed, as they have been entirely for many years *quoad* these articles between the Colonies and the United States, the course of trade has been determined by perfectly natural circumstances to lie between the Lower Provinces and the American seaboard on the one hand; and between Canada and the United States on the other.* This is not the place for a disquisition on a subject so wide as the cause of this effect; but the facts are plain and the reasons for them not difficult to state. The writer has never heard any definite method pointed out by which this condition of things can be greatly changed—he does not speak of vague assertions—except by an artificial system of duties encouraging the trade between the parts of the Confederacy, by shutting out the trade with other parts of the world. The Intercolonial Railway, if built, will of course do something, because railways will make traffic for themselves; but this one goes through a country so thinly settled, and so little inviting to settlers that it cannot be expected to do much in the direction of way traffic, while as to through traffic it is impossible to believe that it will go that way unless a war shall absolutely close the other route. Very natural misapprehension exists on this subject among persons not intimately acquainted with the country, who conclude that because the Colonies adjoin each other, a road through them must be direct, and that by the United States a roundabout road. This is not so; a glance at the map will show that for a shipping port in the winter in connection with Montreal, Portland is far more eligibly situated than St. John or Halifax, and that if it be regarded as an object with passengers to shorten the sea voyage by embarking at either of the latter ports, they will have from Montreal or the Richmond station of the Grand Trunk a shorter route by the present Grand Trunk Road *via* Portland than by the Intercolonial line, while they will travel in a lower latitude, a thing of the utmost importance in our climate in the winter time. It may be said that we want a railway terminus that cannot be closed by the Americans; but it seems to the writer that com-

* In 1864 all the Maritime Provinces, according to official figures published in the Report of the Board of Trade of Montreal amounted,—exports and imports—to a value of \$44,729,601. Of this amount only \$1,306,546 represents the trade with Canada, while \$13,010,036 represents the trade with the United States. As to Canada, while her trade with the other Provinces is thus shown to have amounted to a value of only \$1,304,546, her trade with the United States in that year was \$35,501,443, out of a grand total of \$74,908,529.

mercial undertaking must, to be successful, proceed on economical not political grounds. Besides there is no analogy, as some suppose, between the Reciprocity Treaty and the American bonding system and right of way to Canadians through American territory. We sought the first earnestly and long as a concession; the Americans established the bonding system for the purpose of attracting our trade to their ports; and as a matter of history they solicited us, not we them, to build the railroad which connects Montreal and Quebec with Portland, for the obvious purpose of making that city a seaport for our territory. They are never likely to abolish a system in the continuance of which they not only have, but know that they have, a vast interest. In time of war we of course could not use their roads; but it is extremely doubtful whether we should be better able to use our own. The Intercolonial Road would be itself so near the frontier on a long stretch of country as to make it necessary to suppose the enemy very unenterprising in order that we should believe it quite secure; and farther west the railroad and Canal, without which the Eastern part of the line would lie useless for purposes of commerce, are actually on the bank of the St. Lawrence, and under the guns of the enemy on the opposite side, in his own territory. It ought to be added here that though Customs laws, could be doubtless most easily passed for all the colonies in a United Legislature, there is no reason why the same thing should not be effected, for all objects, by mutual arrangement, as has been already done, for raw materials. This slight convenience would be dearly bought at the cost of an arrangement subject to so many grave objections. Strength, as against an enemy, is also preached as one—perhaps the crowning advantage to be derived from this so-called Union of the Provinces. But military strength consists in one of four things—geographical situation; unity of command, and consequent action; the number of men; the amount of money. It is plain that Confederation will not mass geographically the Colonies, whose real weakness—whatever that may be—consists in their being stretched along the frontier of a State ten times more populous than they. It is equally plain that Great Britain, being the Suzerain, the arbiter of peace and war, and the power which, disguise it as we will, must supplement in case of war all the deficiencies of the Colonies, she will, as she ought, appoint the superior officers in all or any of the armies which may be set on foot, and will dictate the military policy to be adopted. Confederation cannot alter that; and lastly, how can it make either more men or more money than will be produced by the development of the Colonies under the simpler and less expensive system which now prevails, with which the people have expressed no more discontent than exists in all free States where there is a movement party which does not at once gain its object, and under which a large and steady share of prosperity has been experienced. Here again the writer has heard much declamation; but he never yet found any one who could give a definite account of the process by which the anticipated benefit was to accrue, or of the figures in which the probable benefit could be represented; and lest it should be supposed that he is one of those eccentric persons who differ from all the World, and that he alleges objections which occur to no one but himself, it may be well to add here, not only that he asks no acceptance of his conclusions but such as fairly flow from his reasons, but that down to the very moment before the concoctors of the scheme determined to become unanimous, they had disagreed upon every public topic but this one, and on that had agreed that Confederation and its concomitants were either absolutely mischievous, or at all events not opportune. From this statement,

perhaps, I ought to except Mr. Galt. That gentleman had some years previously found reason suddenly to leave the so-called liberal party and to accept the post of Finance Minister under the Conservatives. He made a speech on the occasion, setting forth that his object in this great sacrifice of personal feeling was to carry the Confederation of the Provinces, which no one had previously heard of in Parliament, and no one heard of again. His new colleagues by no means consented to adopt the idea for which he had consented to leave old friends and accept the burden of office, and no one voted with him on the great object of his ambition. Possibly he may still have secretly cherished its worship. But officially he must be held to have given up the hope of accomplishing it. A few days before everybody coalesced a report had come down from a Committee appointed to inquire what could be done to cure the constitutional grievance of the Upper Canada representation being too small for its proportion of population. On that Committee the Government was represented by Mr. Jno. A. MacDonald, and this question of Confederation being one among the remedies spoken of as possible, Mr. MacDonald voted steadily against even considering it as a possible remedy. That must be taken as the latest authority on Ministerial views before they were changed by an adverse vote. The Opposition, though of course there were shades of difference which could not exist between the men actually composing the Ministry, were yet fairly enough represented by Mr. Geo. Brown. He did not treat the subject quite so cavalierly as Mr. MacDonald, but all that the Committee under his leadership did was to agree to consider it on some subsequent occasion. By way of showing what he had previously thought of it, various expressions of his opinion, from his writings in the *Globe* and elsewhere, are thrown into a foot-note below. Most of his objections have been already elaborated in the foregoing pages;* but it will be remarked, among other things, that he especially shows the futility of believing that Confederation would give to Upper Canada more political power than she formerly possessed, or would relieve her from the disproportionate weight of taxation which he alleged was imposed upon her, without a fair share in either the disposition or the expenditure of the revenue. In support of the justice of his opinions then—opinions which he has given no reason for changing, except that he has changed them—the writer directs attention to two points only. First, the position which will be occupied by the Legislative Council nominated by a Ministry hostile to the party which Mr. Brown represents in Canada W., and which has for some years enjoyed a ma-

*The following is a statement from the *Globe* of the 24th October last—Mr. Brown having quarrelled with the Coalition and left it—respecting the opinion of Mr. Atty.-Gen. MacDonald down to the last moment before he adopted Mr. Brown as a colleague, and with that gentleman invented a policy, new to both of them:—"We should like to know when it was discovered that Mr. John A. MacDonald, was entitled to so much credit in connection with a Reform for which Reformers have been struggling for fifteen years against the bitter hostility of Mr. MacDonald and his party. * * * * Who has forgotten that Mr. John A. MacDonald voted against the appointment of the Constitutional Committee of 1864, the Committee whose labours led to the final triumph of the Reform policy? Who has forgotten that as a member of that Committee Mr. MacDonald opposed a Federal Union such as we are about to get to the last—refusing to sign the report of the Committee—a report which foreshadowed the policy of the Coalition."

So far for the views of Mr. MacDonald, which, of course, expressed by his votes on such a Committee as the one spoken of, were the official views of the Ministry of which he was the leading member. As to the fifteen years for which the Reform party with Mr. Brown for their head, contended for this so called Reform, take the following excerpts from Mr. Brown's writings in the *Globe*. Here is something on the measure financially: "Moreover, the effect of a Union with the Maritime Provinces would be that instead of one sucker being fastened on the rich udder of Upper Canada there would be three or perhaps four; a compact of less ad-

jority of the representatives from its own section in Parliament. It is quite plain that such a Council, appointed, moreover, on the same footing of equality hitherto complained of, will render perfectly nugatory the increased representation which Upper Canada is to have in the Assembly, based upon its superior population. Second, the facts that while Mr. Brown represented it as an injustice that Upper Canada, which, he said, paid much more than half the revenue of United Canada, had only an equal voice in its disposal, and only a half share of its expenditure, he has, by way of remedying that evil, undertaken to make a railway, in which Canada, especially Upper Canada, has slight concern, at an expense of four or five million sterling; that of this road Canada will pay four-fifths of the cost, Upper Canada, of course, according to his statements, much more than the half of that sum; and that the Canadian share of that outlay will add above 25 per cent. to a public debt which we have already found it difficult to carry. If there are constitutional difficulties between Upper and Lower Canada now, what will there be when Mr. Brown himself, or some other agitator, shall point out hereafter, and the people shall feel the real bearing of a plan in which they are said to have acquiesced, though they have never expressed an opinion upon it?

CONCLUSION.

It may be asked, then, what is the response which the Imperial Government and Parliament ought to give to the application which has been made to them. The reply is, let them adhere to that wise policy which for twenty-five years has secured perfect contentment in the Colonies, and has prevented the slightest approach to a conflict between them and the Mother Country. Let them remember that whenever they legislate upon a request from this side of the Atlantic, they necessarily, under our system of party Government, legislate for the convenience and support of a party. Let them, therefore, follow the precedent set in the case of the change effected in the Constitution of the Legislative Council, which has been already quoted, and which was the mere practice of the avowed principle that the Colonies are to enjoy self-government. No one here will object to an enabling Act, to permit the Colonies to ratify by their own legislation any agreement come to by negotiators, properly commissioned, provided the ratification shall take place after delays and discussions for eliciting public opinion, and with those forms which are usual in British Legislatures. Those of us who think Confederation unwise will of course continue to think so; but they will be perfectly

"vanced sections of the country, for the expenditure of public money on local objects, not at all useful in the West, would soon be struck up and carried into operation; and the French Canadians standing in the centre in a compact body, will rule more firmly than ever."

Here is something on the subject of the Railway, in considering a proposition afterwards abandoned, that it should be built by a joint contribution for which United Canada should be assessed five twelfths instead of four fifths, as by the present arrangement:—"The scheme of the Government for the construction of the Intercolonial Railway opens an account which never will be closed. Every storm of snow in the inhospitable regions below Riviere du Loup will lay a new burden on the people of Upper Canada. The tax payers will watch the passenger travel and the freight traffic with the liveliest interest, as indicating the extent of the demands upon them for the year. The road will be run with a perfect consciousness on the part of its managers, that there is a prompt payment behind. * * * * It was bad enough when they consented that Canada should pay five twelfths of the expenditure on the road, when in fact it will not receive one twelfth of the benefit; but it was infinitely worse to involve the Provinces in a scheme for running a railway as well as aiding in its construction. Who can fail to see the hand of the Grand Trunk in this?"

"They are putting forward the construction of this Railway as a measure of defence which it cannot properly be considered.

"It is a dream of many persons in Nova Scotia that this Halifax and Quebec Railway will draw to their harbour the trade of the West; but it is a dream and nothing more. No passenger, or shipper of freight will ever think of going, or sending to Halifax when he can find

ready to accept the consequences of the form of Government under which they live. But if the Imperial Parliament shall determine to falsify all its past professions, and to revert to a state of things which was formerly found pernicious, it has a plain duty to perform, and that is to make itself thoroughly acquainted with the subject matter with which it has to deal. Surely the creation of a frame of Government for the vast territory of British North America and the millions who are to people it, is a thing which is worthy of some inquiry and deliberation—inquiry and deliberation of an original kind, not that which merely demands and accepts the opinion of others. Let Parliament, which will not legislate on the Cattle Plague, or a Water supply bill for a small town, without first inquiring into the circumstances by Committee, at least show that it considers its fellow-subjects throughout British North America worthy of an equal degree of labour and forethought.

“shipping at Quebec or Portland. It is said the shortening of the Sea voyage is a great object with travellers, but any one who has travelled 700 miles by railway will, saying nothing of the expenses, greatly prefer the prolongation of a voyage for a day. As to freight the thing is not to be spoken of.

“There is a refreshing coolness in the demand that Canada shall pay for the construction of a road which is professedly designed to draw away the trade from its great estuary. We have been building up the navigation of the St. Lawrence at immense expense, and have had very hard work to compete with the Hudson and Erie Canal. The ministry propose to withdraw the steamers from the St. Lawrence and transfer them to Halifax.”

These things were written not fifteen years before, but within a few months of the writer adopting the confederation policy, railway and all; but even after he had done so, he for some time hesitated to take the bold stand in favour of the thing which he had so steadily condemned, which he has done more lately. Thus, in the *Globe* so recently as July 1864 it is said:—

“The presence of the Maritime Provinces in the Union would not give us a shilling of their money for the payment of the expenses of our local government, nor would their absence add one shilling to our local outlay. But it is to be recollected that the expense of the larger confederation would be greater than that of the smaller. It is said that by a Confederation of the whole we should have more than three millions of people who would contribute to the expenses of the federation of the Canadas; we reply that the greater expense in the former case, would quite make up the difference.

In the explanations submitted to Parliament, moreover, as to the intentions of the Coalition Ministry, and the negotiations which led to them, we find the following statement:—“Mr. Brown asked what the Government proposed as a remedy for the injustice complained of by Upper Canada, and as a settlement of the sectional trouble. Mr. MacDonald and Mr. Galt replied that their remedy was a Federal Union of all the B. N. A. Provinces, local matters being committed to local bodies, and matters common to all to a general legislature, constituted on the well understood principles of a Federal Government. Mr. Brown rejoined that this would not be acceptable to the people of Upper Canada as a remedy for existing evils; that he believed that the federation of all the Provinces ought to come, and would come ere long; but it had not been thoroughly considered by the people, and were it otherwise, there were so many parties to be consulted that its adoption was uncertain and remote.”

In explanation of these extracts, some of which may seem to conflict in some degree with the statement that the policy of Confederation had never been discussed as a practical measure in Parliament, it may be well to explain that most of them were printed during the short period in 1862 and 1863, when gentlemen of Mr. Brown's party held office. They entered into negotiations respecting the railway, which they afterwards abandoned because they were found to be unpalatable to their friends, among others to Mr. Brown. And in the course of the opposition which that gentleman made to the railway policy he chose to assume, without any evidence, that the construction of the railway was to lead to Confederation.

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